

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

---

**AFFIDAVIT**

In Re:

MICHAEL PAUL MCCABE,

Debtor.

Case No.: 05-19380-ajg  
(Chapter 7)

Assigned to:  
Hon. ARTHUR J. GONZALEZ  
Bankruptcy Judge

---

STATE OF SOUTH CAROLINA )  
CITY OF YORK )

Karan Abernathy, being duly sworn deposes and says:

1. I am a Bankruptcy Representative of AMERICA'S SERVICING COMPANY, secured creditor ("Secured Creditor") herein, and as such, I am fully familiar with the facts and circumstances hereinafter set forth.
  
2. This affidavit is submitted in support of Secured Creditor's application for stay relief as set forth in the moving papers.
  
3. Secured Creditor is the holder of a mortgage covering the premises commonly known as 113 ELOISE TERR, SYRACUSE, NY 13207 ("Mortgaged Premises").
  
4. On the 30th day of September, 2005, Debtor MICHAEL PAUL MCCABE, filed a Petition under Chapter 7 of Title 11 U.S.C. § 101 et seq with this Court under case no. 05-19380-ajg, and an Order for relief was duly entered.

5. The Note and Mortgage provide that the Debtor will be in default if he or she does not make full monthly payments on each due date. As of the 23<sup>rd</sup> day of March, 2006, the Debtor has failed to make 2 payments in the amount of \$639.42 which represents the payments due the 1st day of February, 2006 through March, 2006 and has not cured said default. In addition, 1 payment due the 1st day of April, 2006 will be due at the date this motion is heard.
6. That as of the 23rd day of March, 2006, there was an unpaid principal balance owed on the Note and Mortgage in the sum of \$44,318.68, with interest thereon plus late charges in the amount of \$14.76, for an estimated amount owing Secured Creditor in the amount of \$44,333.44. Interest on the unpaid principal balance will continue to accrue, and to protect its security in the Mortgaged Premises Secured Creditor may be required to make further advances for property taxes, insurance and related matters.

WHEREFORE, Secured Creditor respectfully requests that an Order be granted terminating the automatic stay immediately as to Secured Creditor's interest in the Mortgaged Premises, together with such other, further and different relief as the Court may deem just in this matter.

/s/ Karan Abernathy

---

Bankruptcy Representative

Subscribed and sworn to before me  
this 27th day of March, 2006.

/s/ Bonny Mosca

---

Bonny Mosca  
Notary Public  
State of South Carolina  
My Commission Expires  
December 15, 2015